

Nev-Tun, Inc. d/b/a Schulman Meats and its alter egos Nick and Sharon Tunzi and United Food and Commercial Workers Union, Local 711, AFL-CIO. Cases 28-CA-10895, 28-CA-10952, and 28-CA-11441

November 23, 1993

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On January 15, 1993, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Nev-Tun, Inc. d/b/a Schulman Meats and its alter egos Nick and Sharon Tunzi, the Respondent, to make whole employees Dean Felthausen and Frank Tegano for any losses resulting from its unlawful conduct in causing their termination or discharging them, and to also make whole unit employees for its failure to grant vacation pay to certain employees and its failure to make contractually required payments to the health and welfare and pension funds and to otherwise honor the terms of its collective-bargaining agreement in violation of the National Labor Relations Act. On June 15, 1993, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amounts due under the terms of the Board's Order, on August 31, 1993, the Regional Director for Region 28 issued a compliance specification and notice of hearing alleging the amount of backpay and contributions due employees and the trust funds under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated September 28, 1993, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received

and that unless an appropriate answer was filed by close of business on October 7, 1993, summary judgment would be sought. The Respondent filed no answer.

On November 1, 1993, the General Counsel filed with the Board a motion to transfer and continue matter before the Board and a Motion for Summary Judgment, with exhibits attached. On November 3, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the trust funds and discriminatees are as stated in the compliance specification and we will order payment by the Respondent of said amounts to the trust funds and discriminatees in the manner described below.

¹ 310 NLRB No. 19.

ORDER

The National Labor Relations Board orders that the Respondent, Nev-Tun, Inc. d/b/a Schulman Meats and its alter egos Nick and Sharon Tunzi, Las Vegas, Nevada, its officers, agents, successors, and assigns, shall make whole the trust funds and discriminatees named below, by paying them the amounts following their names, plus interest, and with respect to backpay owed employees, minus tax withholdings required by Federal and state laws:

Pension Fund Trust Contributions	\$15,219.39
Health and Welfare Trust Contributions	62,004.94
Vacation Pay	
Reyes Alvarez	942.00
John Bias	942.00
James McCarthy	942.00
Larry Ream	942.00

Frank Tegano Jr.	942.00
Dean Felthausen	942.00
Backpay	
Dean Felthausen	4,400.00
Total	\$87,276.33

Dated, Washington, D.C. November 23, 1993

James M. Stephens,	Chairman
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Dennis M. Devaney,	Member
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John Neil Raudabaugh,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD